

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE, AT PUNE**

O. A. No. 81/ 2022 (WZ)



Shri Shantinath Devappa Hukkeri --- **Petitioner**

Vs.

Dunung Industries Pvt. Ltd. and Othrs. --- **Respondents**

**COUNTER REPLY ON BEHALF
OF RESPONDENT NO. 1 i.e.
DUNUNG INDUSTRIES PVT. LTD.
TO OBJECTIONS FILED BY
PETITIONER TO SECOND
COMMITTEE REPORT.**

The Respondent No. 1 humbly submits before this Hon'ble Court as follows:

- 1) That the present Original Application along with documents and Delay Condonation application is filed by the Petitioner on 09/08/2022 before this Hon'ble Court.
- 2) That this Hon'ble Tribunal vide its order dated 30/09/2022 has directed Petitioner to provide copy of the application and relevant documents to the respondents within a week. However, the petitioner failed to do so as to prolong the proceedings.
- 3) That the Respondent No. 1 herein therefore would like to bring on record the conduct of the Petitioner since filing the present application.
- 4) That the Petitioner has served only copy of Original Application to the Respondent No. 1 herein and not served the copy of documents filed with the application and copy of delay condonation application as well.

- 5) That the Respondent No. 1 has submitted its reply affidavit on 01/12/2022 to the original application filed by the Petitioner and asked for the liberty to file additional reply on serving of documents by the petitioner.
- 6) That this Hon'ble Court was pleased to direct the Petitioner to serve copy of annexures to the Respondents vide order dated 02/12/2022 and liberty was granted to the respondents to file additional reply.
- 7) Accordingly, the Petitioner has delivered copies of annexures and delay condonation application to the Respondent No. 1 herein on 10/04/2023 i.e. after 4 months and 8 days to which the Respondent no. 1 has filed its additional reply on 05/07/2023.
- 8) That, vide order dated 03/04/2023 applicant was given last chance to produce details on record regarding agricultural produce/plants of the last five years also revenue record in that respect so that Committee may be instructed to make assessment of the loss suffered by the Applicant and was also given a last opportunity to the applicant to apply for personal compensation on form no. II within 2 weeks.
- 9) In compliance of the above order petitioner has filed an affidavit dated 06/07/2023 regarding the details of agricultural produce from the year 2013 to 2017, copy of which is not delivered by applicant to the Respondent No.1 herein till date nor any service affidavit is filed by petitioner on record till date. This intentional conduct of the Petitioner be considered by the Hon'ble tribunal.
- 10) That the Hon'ble Tribunal has also directed to forward the affidavit of the petitioner to the Joint Committee and the Committee may ask the petitioner to provide detailed data/records regarding agricultural produce/plants of five years prior to the commissioning of the industry and has also directed committee to ascertain whether for the said piece of land was it possible to grow the crops, which are shown by the applicant in its affidavit dated 06/07/2023 and also to verify the probability of income and loss and whether the same could be correct or not.



- 11) Thereafter, Joint Committee filed its report and the Petitioner on 12/09/2023 requested to file objections to said report and the same granted by the Hon'ble tribunal. It was also directed by the Tribunal to the Petitioner that his counsel shall provide a copy of the said affidavit dated 06/07/2023 to Respondent No. 1 on the same day only as it was not provided to Respondent No. 1. However, the applicants failed to provide the same till date nor any service affidavit is filed regarding same. The Respondent No. 1 has obtained the same copy from the second committee report which was uploaded on the portal. The Hon'ble Tribunal be appreciate to consider the repeated conducts of the Petitioner.
- 12) The next hearing was conducted on 07/12/2023 wherein the counsel for the petitioner failed to file objections to 2nd Joint Committee Report nor she or applicant appeared before the tribunal. She failed to avail the liberties given by the Hon'ble Tribunal from time to time. It is pertinent to note that in spite of giving ample opportunities and liberty, the petitioner and counsel failed to comply with the directions of the court and disobeyed orders of the court which is a grave conduct on the part of the Petitioner. By giving one more opportunity to the petitioner to file their reply, the matter was adjourned for final hearing on 07/03/2024.
- 13) That, on 07/03/2024 Petitioner filed objections to the 2nd report of the Committee enclosing a 7/12 extract of 2022-2024 wherein she was directed to file English translation of 7/12 extract and supply a copy of the objection along with enclosures to the counsel for Respondent No. 1. However, the counsel for Petitioner again failed to supply the copies of the same just to protract the proceedings and harass the respondent. The conduct of the Petitioner is seen crystal clear from the documents she has filed on record and abusing of process of law.
- 14) That, on the directions given by the Hon'ble Tribunal, the Joint Committee has inspected the documents submitted by the Petitioner and has rightly observed that there is no any record/data of Revenue Department provided along with the affidavit dated 06/07/2023. The Committee further has rightly observed that Applicant has falsely



mentioned fruit crops in his affidavit dated 06/07/2023 and in the absence of such revenue records, it is not possible to verify the income claimed by the applicant. The Committee has also further observed that considering the 'Recommended Spacing Specifications for Cultivation of Fruits Crops and Cash Crops' in Ready Reference Diary of Government Agricultural College, it is not at all possible to grow the crops to the tune of quantity which are shown by the applicant in its affidavit dated 06/07/23 and hence losses cannot be ascertained. The above observations of the Committee reveal that the Petitioner have not come before this Hon'ble Court with clean hands and malafidely filed a false affidavit just to extort money from the Respondent No. 1 by abusing due process of law. This conduct of the Petitioner amounts to Contempt of Court and stringent action may kindly be taken against the Petitioner for abusing process of law.

- 15) That, to the shock and surprise of the Respondent No. 1, the petitioner has alleged the observations drawn by the committee stating that the committee has come to the conclusion without visiting the agricultural land and also the committee has not perused current 7/12 extracts which reveals there are fruit tress cultivated in land. It is pertinent to note that as per the contentions of the Petitioner the industry is polluting premises since it is operated and hence this Hon'ble Court has directed to peruse the records of five years prior to operation of the industry. Accordingly, committee has perused the entries and records in 7/12 extracts from 2009 to 2024 that are submitted by Petitioner himself to the committee and committee has observed that no fruit trees are cultivated by Petitioner during cause of action. Therefore, the 7/12 extract submitted along with objections filed on record dated 07/12/2023 itself is fabricated and just to extort and grab money and to divert this Hon'ble Court has malafiedly made entries of fruit crops of around 350 and 722 trees vide mobile app which is not at all authenticated data. The committee by referring the 'Recommended Spacing Specifications for Cultivation of Fruits Crops and Cash Crops' in Ready Reference Diary of Government Agricultural College has already concluded and observed that it is not at all possible to grow the crops to the tune of quantity which are shown by the applicant in its



affidavit as well as in the latest updated 7/12 extracts which are updated by Petitioner after filing of 2nd Committee Report.

- 16) However, the documents submitted by the petitioner and reports submitted by the Committee doesn't show any substantial evidence on record to show that industry has polluted the agricultural land of the petitioner.
- 17) By the ulterior motive to extort money from the respondent by threatening of environmental pollution and agricultural loss mere on allegations by abusing of process of law.
- 18) A context of the documents submitted by the petitioner along with the revenue records clearly reveals that the petitioner is suppressing the material fact and there is absence of concrete evidence.
- 19) It is therefore prayed that-
- The application of the Petitioner may kindly be dismissed;
 - The reliefs sought for as against the Respondents be dismissed in limine and exemplary costs be granted in favour of the Respondents herein towards malicious allegations, loss of time, loss of effort and tarnishing of good reputation of the Respondent No. 1 herein;
 - The present Respondent No. 1 be permitted to add to or to amend say as, if and when necessary.

Place: Kolhapur

Date: 03/07/2024



Respondent No. 1

Advocate for Respondent No. 1

VERIFICATION

I Pritam Prafulla Dunung, Age- 44, Occu- Business, Director of Respondent No. 1 R/o. Kolhapur, State on solemn affirmation that the

contents of above Say are true and correct to the best of my knowledge and belief and the information which I have relieved and I believe same to be true and correct. Hence the Verification.

Kolhapur

Date - 08.07.2024

Respondent No. 1

AFFIDAVIT

I Pritam Prafulla Dunung, Age- 44, Occu- Business, Director of Respondent No. 1 R/o. Kolhapur today at Kolhapur State on oath that the contents of above Say are true and correct to the best of my knowledge and belief and I believe them to be true and correct. Hence the Affidavit.

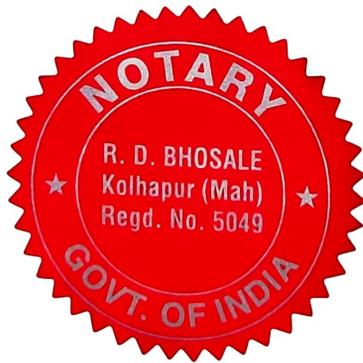
Kolhapur

Date - 08/07/ 2024

I Know the deponent

Advocate

Respondent No. 1



Notary Sr.No.3164/2024
BEFORE ME

R. D. BHOSALE
Notary (Govt.Of.India)
Dist Court,Kolhapur (MAH)
Kolhapur - 416 002

8 JUL 2024

